

HOUSE BILL REPORT

HB 1072

As Passed House:
February 12, 2004

Title: An act relating to ethics investigations.

Brief Description: Increasing options in ethics investigations.

Sponsors: By Representatives Haigh and Armstrong; by request of Legislative Ethics Board.

Brief History:

Committee Activity:

State Government: 2/4/03, 2/7/03 [DP].

Floor Activity:

Passed House: 2/21/03, 95-0.

Floor Activity:

Passed House: 2/12/04, 93-0.

Brief Summary of Bill

- The Attorney General will only investigate complaints of ethics violations by a legislator or statewide elected official regarding use of public resources for political campaigns if requested to do so by the appropriate ethics board.

HOUSE COMMITTEE ON STATE GOVERNMENT

Majority Report: Do pass. Signed by 9 members: Representatives Haigh, Chair; Miloscia, Vice Chair; Armstrong, Ranking Minority Member; Shabro, Assistant Ranking Minority Member; Hunt, McDermott, Nixon, Tom and Wallace.

Staff: Marsha Reilly (786-7135).

Background:

The Legislative Ethics Board, the Executive Ethics Board and the Commission on Judicial Conduct (Commission), as well as the Attorney General (AG), have broad powers to enforce ethics laws.

Ethics Boards

Both the Legislative and Executive Ethics Boards are empowered to: issue advisory opinions; investigate, hear, and determine complaints by any person; impose sanctions, including reprimands and monetary penalties; recommend suspension or removal to the appropriate

legislative entity, or recommend prosecution to the appropriate authority; and establish criteria regarding the levels of civil penalties appropriate for different types of violations.

The boards' powers to impose monetary penalties include the greater of: (a) civil penalties of up to \$5,000 per violation; or (b) three times the economic value of anything received in violation of the ethics rules. The boards are also authorized to order violators to pay the damages sustained by the state as a result of the violation and costs, including reasonable investigative costs.

The Commission was established under Article IV, Section 31 of the Washington Constitution. The Commission has the duty to enforce the ethics rules with respect to state officers and employees of the judicial branch. In addition to the sanctions which the Commission is authorized to impose under the Constitution, the Commission generally is authorized to impose the same sanctions as the Legislative Ethics Board and Executive Ethics Board.

Attorney General

Upon determining that an ethics board is "clearly erroneous" in not taking action against a violator, the AG may bring civil action in superior court for recovering amounts that the board could have recovered. Where an ethics board finds there is not reasonable cause to believe that a person has committed a violation or finds that a person has not committed a violation, then the AG must provide legal representation to the person in any subsequent legal action that is based on the facts in the complaint.

The AG also investigates all complaints that allege a violation by a legislator or statewide elected official, other than the AG, in the use of public resources for political campaigns. In these cases, the AG recommends action to the appropriate ethics board.

Use of Public Resources for Political Campaigns

It is a violation of ethics law for any state officer or state employee to authorize the use of public facilities, directly or indirectly, for election campaigns or ballot propositions. Agency facilities include, but are not limited to, stationery, postage, machines and equipment, use of state employees during working hours, vehicles, office space, publications of the agency, and agency clientele.

Summary of Bill:

Complaints that allege a violation in the use of public resources for political campaigns by a legislator or a statewide elected official, other than the AG, are no longer investigated by the AG unless requested to do so by the appropriate ethics board.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: Not all complaints need to be forwarded to the Attorney General (AG). The Legislative Ethics Board (Board) can deal with most complaints swiftly and at less cost than the AG. The AG bills the Board directly for investigation time. Last year the AG investigated two complaints, both of which resulted in a finding of "no probable cause", and averaged \$10,000 per complaint. Currently the law requires a referral even though most allegations are easily resolved. There would still be an investigation but it wouldn't have to be done by the AG.

This bill would not affect the Executive Ethics Board as it is staffed by the AG's Office.

Testimony Against: None.

Testified: (Information only) Mike O'Connell and Brian Malauky, Legislative Ethics Board.